

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

- against -

ERICK JASON VICTORIA-BRITO,

Defendant.

22-cr-648-3 (JGK)

ORDER

JOHN G. KOELTL, District Judge:

At the initial hearing on January 29, 2025, Magistrate Judge Willis excluded time from Speedy Trial Act purposes, from that date until February 13, 2025. See Tr. at 11. Although the exclusion is not reflected in the docket sheet, it is reflected in the transcript, a copy of which is attached. This Court then excluded time from February 7, 2025, until February 13, 2025. See ECF No. 131. Finally, on February 13, 2025, this Court excluded time from Speedy Trial Act calculations until May 21, 2025. See ECF No. 134. Therefore, it does not appear that any time has elapsed under the Speedy Trial clock. If either party disagrees, that party should bring the matter to the Court's attention.

SO ORDERED.

Dated: New York, New York
February 18, 2025



John G. Koeltl
United States District Judge

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----:
UNITED STATES OF AMERICA, : Case No.:22-cr-648
Plaintiff, :
-against- :
ERICK JASON VICTORIA-BRITO, : New York, New York
Defendant. : January 29, 2025
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TRANSCRIPT AND STATUS CONFERENCE HEARING
BEFORE THE HONORABLE JENNIFER E. WILLIS
UNITED STATES MAGISTRATE JUDGE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE
SOUTHERN DISTRICT OF NEW YORK
BY: THOMAS S. BURNETT, AUSA
One St. Andrew's Plaza
New York, New York 10007

For Defendant: LAW OFFICES OF JACQUELINE E. CISTARO
BY: JACQUELINE E. CISTARO, ESQ.
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Proceedings recorded by electronic sound recording;
Transcript produced by transcription service.

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1 THE DEPUTY CLERK: Good afternoon, Your
2 Honor. We are here for USA v. Mr. Erick Jason
3 Victoria-Brito, Docket Number: 22-cr-648.

4 We ask the counsel for the government as
5 well as counsel for defense to please rise and state
6 their names for the record.

7 MR. BURNETT: Good afternoon, Your Honor.
8 I'm Tom Burnett for the government. I'm joined here
9 at counsel table by Detective Daniel Alessandrino of
10 the NYPD and Secret Service.

11 THE COURT: Good afternoon.

12 MS. CISTARO: Good afternoon, Your Honor.
13 Jacqueline Cistaro, on behalf of Mr. Erick Jason
14 Victoria-Brito, who's present and seated to my
15 right.

16 THE COURT: Good afternoon. And good
17 afternoon, Mr. Victoria-Brito.

18 Sir, I am Judge Willis, and you have been
19 arrested based on charges filed against you in an
20 indictment. First thing I will note is that you are
21 utilizing the assistance of a Spanish language
22 interpreter, and that you have headphones on to
23 assist with that interpretation.

24 Are you able to hear through those
25 headphones, sir? And are you able to understand the

1 interpretation?

2 THE DEFENDANT: Yes.

3 THE COURT: If at any point today that
4 changes, if the headphones stop working or you don't
5 understand the interpretation, can you please let me
6 know by raising your hand. You don't need to wait
7 until I'm done talking or until the parties are done
8 talking. If you're not able to understand, we need
9 to stop, address the problem before we continue; all
10 right?

11 THE DEFENDANT: Okay.

12 THE COURT: All right. So the purpose of
13 today's proceeding is to inform you of certain
14 rights that you have, inform you of the charges
15 against you, consider whether an attorney should be
16 appointed for you, and decide under what conditions,
17 if any, you should be released pending trial.

18 Government, can I have the date and time of
19 Mr. Victoria-Brito's arrest, please?

20 MR. BURNETT: Yes, Your Honor.

21 Mr. Victoria-Brito was arrested in the Dominican
22 Republic on November 5, 2024. He was then taken
23 into custody in the United States on January 28,
24 2025, at approximately 6:30 p.m.

25 THE COURT: Thank you.

1 Sir, as I've indicated, you've been charged
2 based on -- you've been arrested, rather, based on
3 charges filed in an indictment, and I want to
4 explain to you certain constitutional rights that
5 you have.

6 You have the right to remain silent. You
7 are not required to make any statements. And even
8 if you have already made statements to the
9 authorities, you do not need to make any further
10 statements. If you do make any statements, those
11 statements can be used against you.

12 You have the right to be released either
13 conditionally or unconditionally pending trial,
14 unless I find that there are no conditions that
15 would reasonably assure your presence at future
16 court appearances and the safety of the community.

17 If you are not a United States citizen, you
18 have the right to request that a government attorney
19 or a law enforcement official notify a consular
20 officer from your country of origin that you have
21 been arrested. In some cases, a treaty or other
22 agreement may require the United States government
23 to give that notice, whether you request it or not.

24 Government, I don't know if the fact that
25 Mr. Victoria-Brito was detained in the Dominican

1 Republic and then extradited to the United States
2 means he is a citizen of the Dominican Republic.
3 But to the extent that he is, is that a country with
4 mandatory consular notification?

5 MR. BURNETT: Your Honor, I'm not sure
6 because we know the Dominican Republic is aware
7 based on the extradition, but I'll look into it
8 right after this, Your Honor.

9 THE COURT: Thank you very much, sir.

10 You have the right, sir, to be represented
11 by an attorney during all court proceedings,
12 including this one, and during all questioning by
13 the authorities. You have the right to hire your
14 own attorney. But if you cannot afford to hire an
15 attorney, I will appoint one to represent you.

16 Do you understand these rights that I have
17 just explained to you, Mr. Victoria-Brito?

18 THE DEFENDANT: Yes.

19 THE COURT: All right. So I have been
20 handed, sir, a form that says "Financial Affidavit"
21 at the top. It has information on it about whether
22 or not you're working, how much money you make, what
23 your monthly bills and expenses are, and whether you
24 own anything of value. At the bottom of this form
25 is what looks like your signature, and it says

1 "Signature of Defendant," and what appears to be
2 your signature.

3 Did you sign this form, sir?

4 THE DEFENDANT: Yes.

5 THE COURT: And did you fill this form out
6 yourself or give information to Ms. Cistaro to fill
7 it out for you?

8 THE DEFENDANT: I signed -- I signed it
9 myself.

10 THE COURT: All right.

11 MS. CISTARO: Your Honor, may I?

12 THE COURT: You may.

13 MS. CISTARO: I reviewed the form with Mr.
14 Brito. I went over all the information he provided.
15 I asked him questions. He provided me with the
16 answers. I filled out the contents of the financial
17 affidavit, and he signed the financial affidavit.

18 THE COURT: So when your attorney was
19 asking you questions about your finances, about
20 whether you had a job, what your monthly bills are,
21 were the answers that you gave her truthful answers,
22 as far as you know?

23 THE DEFENDANT: Yes.

24 THE COURT: All right. Thank you. So
25 based on what I see on this form, sir, I find that

1 you do qualify for the appointment of a free
2 attorney, and I will appoint CJA Attorney Jacqueline
3 Cistaro to represent you.

4 MS. CISTARO: Thank you, Your Honor.

5 THE COURT: Government, has this case been
6 referred for arraignment as well as presentment?

7 MR. BURNETT: It has. Thank you.

8 THE COURT: All right.

9 Counsel, have you received a copy of the
10 indictment containing the charges against
11 Mr. Victoria-Brito?

12 MS. CISTARO: Yes, Your Honor, I have
13 received a copy. I've reviewed it with the
14 assistance of an interpreter with
15 Mr. Victoria-Brito. He understands all the charges
16 against him.

17 THE COURT: Would he like those charges
18 read aloud in court?

19 MS. CISTARO: No, Your Honor. We have
20 formal reading.

21 THE COURT: And are you prepared to enter a
22 plea on his behalf?

23 MS. CISTARO: Yes, we plead not guilty,
24 Your Honor.

25 THE COURT: All right. The record should

1 reflect that the defendant has pleaded not guilty
2 and is now arraigned.

3 Government, given the age of this case and
4 the fact that I believe four other co-defendants
5 have made their way through the court system, I
6 assume a Brady admonishment has already been filed
7 on the docket?

8 MR. BURNETT: Yes, I believe Judge Koeltl
9 did.

10 THE COURT: All right. Thank you very
11 much.

12 I will hear from the government next as to
13 bail, detention or release for Mr. Victoria-Brito.

14 MR. BURNETT: Yes. The government is
15 seeking Mr. Victoria-Brito's detention under
16 18 USC 3142(f)(2)(A) and (B), as well as (e)(1), on
17 the grounds that he is both a risk of flight and a
18 danger to others.

19 The government understands that at this
20 time, Mr. Victoria-Brito is not going to be
21 contesting detention without prejudice to a later
22 bail application.

23 MS. CISTARO: Thank you. That's correct,
24 Your Honor. We are going to consent to detention at
25 this time and respectfully request leave to file an

1 application in the future, should one become
2 appropriate.

3 THE COURT: Mr. Victoria-Brito, based upon
4 my review of the charging document and the agreement
5 of your attorney, I am going to detain you today.
6 That will be without prejudice to future
7 applications. Meaning, if in the future, you and
8 your attorney think you're in a better position to
9 make a request for bail, you would be able to come
10 back to Court and make that request, and it wouldn't
11 be held against you that you had not made a request
12 for bail today.

13 Has Judge Koeltl set a date for initial
14 pre-trial hearing -- a conference, rather, with
15 respect to Mr. Victoria-Brito?

16 MR. BURNETT: Yes, Your Honor. At this
17 time, he set one for February 13th, at noon, and has
18 asked that the Court exclude time until that date.
19 It may need to change because he said that before
20 Ms. Cistaro was appointed. So we might need to work
21 a different date out.

22 THE COURT: Okay. And so when he set that
23 date, Judge Koeltl did not already exclude time, and
24 you were making a request that I exclude time to
25 that date; is that --

1 MR. BURNETT: That's correct, Your Honor.

2 THE COURT: All right.

3 Ms. Cistaro, what is your position with
4 respect to the government's request for the
5 exclusion of time?

6 MS. CISTARO: We have no objection, Your
7 Honor.

8 THE COURT: Mr. Victoria-Brito, you have
9 the right to have your case resolved in a speedy
10 fashion and to have a speedy trial. And so there is
11 a -- there is a clock. There is a limit on how long
12 it can take to get you to trial; however, when
13 appropriate, a court can sort of stop that clock
14 when there's things that need to be done in the
15 case.

16 Here, I find that your interest and the
17 public's interest in a speedy trial is outweighed by
18 the need of both parties to start exchanging
19 discovery. Meaning, your lawyer needs to get the --
20 you know, the documents, the reports, whatever it is
21 that is the basis of the government's charges
22 against you. She needs to be able to start talking
23 to the government about, you know, perhaps a
24 potential resolution of this case; all sorts of
25 things. And so I think that the need to do those

1 things outweighs your interest and the public's
2 interest in a speedy trial. So I will exclude time
3 from the speedy trial clock between today and
4 February 13th, which is the tentative date where
5 Judge Koeltl anticipates being able to see you for
6 an initial conference before him.

7 It is possible that if that date does not
8 work with Ms. Cistaro's schedule, she'll consult
9 with the government, consult with Judge Koeltl and
10 there's a possibility that you might have a
11 different date. But for now, the plan would be for
12 you to see Judge Koeltl in, roughly, two weeks from
13 now.

14 Government, is there anything else we need
15 to discuss from your perspective?

16 MR. BURNETT: No, thank you.

17 THE COURT: Anything else on behalf of
18 Mr. Victoria-Brito?

19 MS. CISTARO: No, thank you, Your Honor.

20 THE COURT: In that case, we will be
21 adjourned. And good luck, sir.

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C E R T I F I C A T E

I, Adrienne M. Mignano, certify that the foregoing transcript of proceedings in the case of USA v. Erick Jason Victoria-Brito; Docket: #22CR648 was prepared using digital transcription software and is a true and accurate record of the proceedings.

Signature Adrienne M. Mignano
ADRIENNE M. MIGNANO, RPR

Date: February 14, 2025